

**TESTIMONY OF JIM BROWN –
108 S. PACIFIC ST.
DILLON, MONTANA 59725**

Good morning Mr./Mrs. Chairman & members of the committee

My name is Jim Brown – b.r.o.w.n. I am from dillon, Montana and am an attorney there.

You may know me as I am a lobbyist for the Montana Stockgrowers association. I am not here in that capacity however and I do not want to represent in any way that I speak for the Stockgrowers on this bill.

I come before you today for two reasons.

First, I come as a proxy for a high school student in my hometown, Shelby F. DeMars who strongly favors changing the Montana constitution to allow 17-year-olds to vote in the primary prior to the general election in which they would be 18 and eligible to vote.

As some of you may know, I ran for state legislature this past election cycle down in Beaverhead County. During my run, I met Ms. DeMars who asked me to draft and carry a bill similar to the one proposed by Representative Menahan should I be elected to this esteemed body. I did not win, but I did put together a draft bill to carry out Ms. DeMars's public policy goals.

I have brought with me today a letter Ms. DeMars gave me last year when she was looking for a sponsor for her proposed bill/constitutional amendment.

With the Chairman's permission, I would like to have Ms. DeMars's letter entered into the record on this bill.

Second, I would like to give you some legal thoughts on Representative Menahan's bill in its present form.

As you will note, Mr. Menahan only amends the statutory provision defining what is a qualified Montana voter. However, in my opinion, the statutory framework is only one piece of the puzzle to allow 17-year-olds to vote. The other is to address the Montana Constitution.

As you know, the minimum age limit to be a qualified voter in Montana is addressed in Article IV, Section 2 of the Montana Constitution. That provision provides that any citizen of the US 18 years of age or older who meets the registration and residence requirements provided by law is a qualified voter.

As I read this provision, it appears to me that amending the statutory criteria for who is an eligible voter is not sufficient to accomplish Representative Menahan's goal of allowing

17-year-olds to vote. It is my opinion that the Montana constitution needs to be amended to allow for 17-year olds to vote. This would have to be done by referendum.

As I noted earlier, at Ms. DeMars's request, I drafted a bill to do just that – to provide for a referendum to amend the constitution to allow for 17-year-olds to vote. I am happy to share that draft legislation with this Committee and Representative Menahan specifically.

In addition to the Montana Constitution requirement that one has to be a minimum of 18-years-of-age to vote in an election, the U.S. Constitution also contains a floor of 18 years of age to vote in a federal election.

Specifically, **Amendment 26 to the U.S. Constitution reads- Voting Age Set to 18 Years. Ratified 7/1/1971. History**

1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.
2. The Congress shall have power to enforce this article by appropriate legislation.

As I read the Montana and U.S. constitutions together, the U.S. Constitution provides that persons aged 18 or older have the right – if qualified – and no state can raise that age from 18. However, as I read the U.S. Constitution, that constitution would allow the state of Montana to lower its voting age to 17. So, what Representative Menahan seeks to do here is permissible.

But, there are two problems with his bill as I see it now.

First, Representative Menahan's bill provides no provision for what is to take place if there were to be a school election, mill levy or bond issue that arises in-between the time of the general election and the primary election. See, e.g. Chapter 20, Title 20. As presently written, I don't believe Representative Menahan's bill would allow 17-year-olds to vote in those types of elections, and that may very well be his intent.

Second, given the 26th amendment to the Constitution, it is unclear to me whether the State of Montana can allow its 17-year-old residents to vote for federal offices. For example, the situation may arise where the 17-year-old may have to be given a different ballot – allowing the 17-year-old to vote, for example, for Montana Governor candidates in the primary, but not for U.S. Senate candidates in the primary. This could be a logistical problem for the

I apologize if my remarks are not more clear and concise. I only learned last night of the existence of this bill and of today's hearing. Therefore, I did not have as much time to prepare for today's hearing as I would have liked.

That said, I trust my comments were helpful and I am available for questions.

3/30/2008

EXHIBIT
DATE 4/26/09
HB 277

Ladies and Gentlemen of the Legislature,

I am gracious for the opportunity to present to you an amendment which I hope will create greater enthusiasm amongst Montana's young voter's.

I am seeking a member of the Legislature that would support an amendment to Article IV, Section 2 of the Montana Constitution. My amendment would give Montana citizens, seventeen years old, the right to vote in any primary held at the state or national level if the individual turns eighteen years old on or before a general election. This alteration of the Montana constitution would not infringe upon any Constitutional amendment or federal law. As the U.S. Constitution, Amendment XXVI states, "*Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age. Section 2. The Congress shall have the power to enforce this article by appropriate legislation.*" This protects the right of a personage 18 or older to vote. It does not however, limit the ability of the states to determine how they will conduct the process by which they will allow their citizens to vote.

Allowing seventeen year olds to vote in the primary election, if the individual is eighteen years of age on or before the date of the general election, would not only allow the youth in our state to exercise their right to vote by allowing their voices influence and their opinions have greater weight in who they would be voting for in the corresponding general election, but it would also help instill the desperately needed political and social awareness that is rapidly declining with the younger generation of our country. Several states (Indiana, Kentucky, Maine, Maryland, Mississippi, Nebraska, North Carolina, Ohio, Virginia) have enacted similar legislation to increase voter turnout and to encourage the youth in their states to participate in choosing the elected officials that represent them.

By instituting this amendment, Montana would take affirmative action in promoting the interest of our state's youth in the actions of our government as well as support young adults who desire to participate in choosing who would represent them in a general election at which time they would be fully eligible to vote.

I greatly appreciate the time you have taken to review and consider this amendment. If you have interest in supporting it or any questions or concerns, please contact me. Thank you once again for your time and support.

Sincerely,

Shelby F. DeMars